

SHOOTERS ALLIANCE FOR FIREARMS RIGHTS
STATEMENT IN SUPPORT OF HB 5972 AND 5973

The Shooters Alliance for Firearm Rights Supports HB 5972 and 5973 in substance, and expresses concern regarding the clarity of certain language contained in HB 5973.

HB 5972 would eliminate Michigan's costly and wasteful process for obtaining a license to purchase a pistol. Pistol purchase licensing is expensive and redundant, given that Michigan law largely parallels Federal law regarding the eligibility to possess a pistol, and that everyone who purchases a pistol from a dealer must submit to an FBI National Instant Criminal Background System (NICS) check. Purchasers who possess a valid concealed pistol license (CPL) will have submitted to a NICS check as part of their CPL application process. Thus, the licensing process is redundant, and in an age of tight budgetary realities, represents an excess that the state government and local governments law enforcement could easily trim.

In addition to the wasteful redundancy of the licensing process, local police departments or sheriff's offices all too often abuse the authority granted them by the licensing statute, by refusing to issue a purchase license to a person entitled to one, or by illegally harassing lawful gun owners, or making the process costly or inconvenient. Current law allows a local police department to refuse to issue a license if it finds "probable cause" to believe the applicant would be a threat to himself or another person. This section is often subject to arbitrary and inconsistent interpretation; moreover, it does not jibe with the concealed pistol act, which requires "clear and convincing" evidence that a person would be a threat before a gun board can deny a person a CPL.

Other abuses occur daily. For example, many police departments' licensing operations are only open during certain inconvenient, limited hours, in violation of the law's directive that such licensing operations be open all the hours that the department is normally open for business. Judicial relief for such violations of the law is not readily available.

In addition, many departments charge a fee for issuing a license to purchase a pistol, also in violation of Michigan law. Often this is disguised as a "notary fee," as the application for a license to purchase a pistol must be notarized; however, contrary to the position of the abusive departments, Michigan law does not require that the issuing police department provide the notarization. Again, this abuse of power by law enforcement escapes correction, either from the courts, or from others in Michigan's law enforcement community.

Other abuses of the licensing process encountered by Michigan residents seeking licenses to purchase pistols include police departments imposing either a "waiting period," (often in the guise of "processing time,"), and/or limitations on the number of pistols that may be purchased within a given time frame. Often, competitive shooters must purchase multiple firearms; collectors have narrow windows within which to purchase collectible firearms; or the heir of a deceased firearms owner needs multiple licenses to legally obtain all of the firearms bequeathed to him or her. In any such situation, a local police department that acts in such a legally indefensible manner can, and has, caused financial hardship, unnecessary inconvenience, and loss of opportunity to purchase a specific pistol or pistols, by their illegal acts. And in virtually every case, both the economics of litigation, and the obstacles posed

by the doctrine of sovereign immunity, leave the victim of such illegal police actions without judicial remedy.

If HB 5972 passes, Michigan will still retain its registration scheme, and will continue to maintain its database of pistol owners and the pistols they own. The expensive, redundant, and subject-to-abuse purchase licensing scheme would be eliminated, as would the cost to local police departments to investigate and issue purchase permits.

HB 5973 would, if passed, correct a legislative error inadvertently committed four years ago. 2005 PA 262 amended the concealed pistol law to allow renewal licenses, if approved before the original license expired, to take effect the same day that the original license expired. The intent of this act was to insure that the concealed pistol license would be valid for a full five years. Unfortunately, when 2006 PA 92 (providing for an automatic extension where a gun board did not timely act on a renewal application) and 2006 PA 184 (providing that initial CPLs expire on the licensee's birthday) were passed by the Legislature, the expiration-activation language of 2005 PA 262 was inadvertently deleted. As a result, Michigan law now provides that CPLs expire on the licensee's birthday after the license is four years old. No CPL holder gets a CPL for a full five years, unless he or she is fortunate enough to have the gun board issue the renewal license on his her or her actual birthday. Even then, some boards have issued only a four year license.

SAFR and other Michigan gun owners rights' organizations sought to have CPLs issued, and expire, on the licensee's birthday, partially to spread the workload of processing renewal applications more evenly throughout the year, but also to reduce the incidents of CPL licensees failing to note the expiration dates on their CPLs, thus inadvertently committing the five year felony of Carrying a Concealed Weapon.

The intent of HB 5973 is to allow renewal CPLs to last for five years, from birthday to birthday; however, it is poorly worded. SAFR recommends that section 5/(3) be revised to make clear that, where a licensee timely applies for a renewal of his CPL, the renewal CPL will last a full five years, from the licensee's birthday upon which their initial license expires, to the licensee's birthday five years later. It may be possible to accomplish this by changing the last limitation in subsection (3) to read "no more than 5 years" from the date of issuance. However, SAFR recommends that either this Committee or the Legislative Service Bureau redraft the language of subsection (3) to make clear that an initial CPL lasts for "four years and a birthday," and that subsequent CPLs, (so long as the licensee timely applies for renewals), last for five years from birthday to birthday.